



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,687	01/21/2002	Gary M. McMurtry	GM-1-mv	8407

7590 05/09/2003
Michael I. Kroll
171 Stillwell Lane
Syosset, NY 11791

EXAMINER

FERNANDEZ, KALIMAH

ART UNIT PAPER NUMBER

2881

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,687

Applicant(s)

MCMURTRY ET AL.

Examiner

Kalimah Fernandez

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: Claim 1 recites a housing for an internal standard reservoir; a stepper motor; a guide rod; a sampler rod; and pressure compensating bladder. However, the essential structural relationship between said parts is omitted. It is unclear how the recited parts relate and/or interact; therefore, applicant has failed to clearly point out what his invention is.
3. As per claims 2-4, it is unclear if the "housing encompassing an internal standard reservoir" is mounted to a mass spectrometer via recited sealing means, if not. Applicant has failed to establish how the parts recited in claim 1 relate to form a device, which can be mounted via a sealing means.
4. Furthermore, the function or relationship of the stepper motor to said device of claim 1 has not been established, therefore the limitations of claims 5-6 are rendered ambiguous at the least.
5. In regards to claims 7-20, applicant must clearly point out the structural relationship between the recited parts of claim 1 in order that the reader can understand what he regards as his invention.

Claim Rejections - 35 USC § 103

6. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Document 2002/0079442 filed on 10/4/2001 issued to Fries and in view of UK 2178534 issued to Constantin.
7. Fries teaches a housing encompassing an internal standard reservoir (pg.3, col.1, para 0042).
8. Fries teaches a pressure compensating bladder (pg.4, col.1, para. 0047).
9. Fries does not teach a stepper motor; guide rod; and sampler rod. However, Constantin teaches a device for introduction of samples having a stepper motor, guide rod, and sampler rod (pg.1, col.2, lines 93-110; pg.2, col.1, line 63-col.2, line 81).
10. It would have been obvious to a skilled artisan to combine the teachings of Fries and Constantin since Constantin teaches improved introduction of sample through successive, continuous manner (pg. 1, col.2, lines 111-129).
11. As per claim 11, Fries discloses the internal standard reservoir having a known substance (pg.3, col.1, para. 0041).

Conclusion

12. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US Pat. 6,483,778 issued to Pozzo et al; US Pat 4,723,577 issued to Wusterbarth; US Pat. 6,177,991 issued to Okuda; US Pat No 4,879,458

Art Unit: 2881

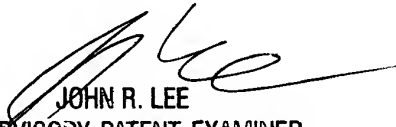
issued to Brunfeldt et al; US Pat No 5,397, 989 issued to Spraul et al; US Pat 4,601,211 issued to Whistler; and US Pat 3,946,759 issued to Mercier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalimah Fernandez whose telephone number is 703-305-6310. The examiner can normally be reached on Mon-Thus between 8:30am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Lee can be reached on 703-308-4116. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

kf
May 2, 2003


JOHN R. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800